

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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LEONARD MOORE,

Petitioner,

Case No. 22-cv-12321

v.

JONATHAN HEMINGWAY,

Respondent.

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 /

**ORDER GRANTING RESPONDENT’S MOTION TO HOLD BRIEFING IN ABEYANCE**

Petitioner Leonard Moore is currently serving a sentence of 204 months in prison for convictions arising out of his participation in various crimes, including a firearm conviction under 18 U.S.C. § 924(c). On September 30, 2022, he filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. (ECF No. 1.) Petitioner essentially argues that his § 924(c) conviction should be vacated in light of the Supreme Court’s decision in *United States v. Taylor*, 142 S. Ct. 2015 (2022). (Id.) This sort of claim generally must be raised in a motion under 28 U.S.C. § 2255, but Petitioner attempts to raise it in a petition under 28 U.S.C. § 2241. He can proceed under § 2241 only if § 2255’s “savings clause” applies, that is, if he shows § 2255 is an “inadequate or ineffective” remedy. See 28 U.S.C. § 2255(e).

On November 16, 2022, Respondent filed a motion to hold briefing in abeyance until the United States Supreme Court issues a decision in *Jones v. Hendrix*, No. 21-857, 2022 WL 1528372 (May 16, 2022). (ECF No. 4.) The question at issue in *Jones* is a circuit split regarding the availability of 28 U.S.C. § 2255(e)’s savings clause to allow

statutory interpretation claims to be raised under § 2241. Respondent argues that, “because the scope of the saving clause is jurisdictional, it is a threshold question that this Court must resolve before reaching the merits of Moore’s petition.” (ECF No. 4, PageID.54.) Petitioner did not file a response.

The court has “broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997). Here, the court finds that the Supreme Court’s forthcoming decision in *Jones v. Hendrix*, No. 21-857, which was argued on November 1, 2022, is likely to impact the question of whether relief is available to Petitioner. Thus, the court finds that a stay would appropriately serve the interests of judicial efficiency. Accordingly,

IT IS ORDERED that Respondent’s “Motion to Hold Briefing in Abeyance Pending *Jones v. Hendrix*” (ECF No. 4) is GRANTED.

IT IS FURTHER ORDERED that, within 60 days of the Supreme Court’s decision in *Jones*, Respondent shall file a response to the habeas petition. Petitioner may thereafter file a reply no later than 60 days after the response is filed.

s/Robert H. Cleland /  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: May 4, 2023

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 4, 2023, by electronic and/or ordinary mail.

s/Lisa Wagner /  
Case Manager and Deputy Clerk  
(810) 292-6522